

THE NORTH CAROLINA JUDICIAL STANDARDS COMMISSION



2010 ANNUAL REPORT

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This report provides statistical data of the activities of the Commission in 2010. For further information please visit the Judicial Standards Commission's web site at:

<http://www.nccourts.org/Courts/CRS/Councils/JudicialStandards/Default.asp>

INTRODUCTION

The North Carolina Judicial Standards Commission was created in 1973 by virtue of an amendment to Article IV, Section 17 of the Constitution of North Carolina and the enactment of Article 30 of Chapter 7A of the General Statutes. The purpose of the Commission has been repeatedly stated by the Supreme Court, but was first voiced by Justice Exum in *In re Crutchfield*, 289 N.C. 597, 602, 223 S.E.2d 822, 825 (1975):

“[A proceeding before the Judicial Standards Commission] is neither criminal nor civil in nature. It is an inquiry into the conduct of a judicial officer, the purpose of which is not primarily to punish any individual but to maintain due and proper administration of justice in our State's courts, public confidence in its judicial system, and the honor and integrity of its judges.”

The Commission exists as the appropriate agency “for the investigation and resolution of inquiries concerning the qualifications or conduct of any justice or judge of the General Court of Justice.” N.C.G.S. §7A-374.1. It receives and investigates complaints of judicial misconduct or disability, institutes disciplinary proceedings, conducts hearings, and recommends appropriate disciplinary action to the North Carolina Supreme Court or the North Carolina Court of Appeals. The Commission itself can neither censure nor remove. It functions to aid in determining whether a justice or judge is unfit or unsuitable, and it is for the court to actually assess the disciplinary sanctions provided in N.C.G.S. §7A-376. *In re Nowell*, 293 N.C. 235, 237 S.E.2d 246 (1977).

The Commission also provides formal advisory opinions to judges and justices in response to written requests. The executive director and Commission counsel provide informal advisory opinions upon request and participate in new judge training and continuing judicial education.

The membership of the Commission consists of one Court of Appeals judge, who serves as the chairperson, two superior court judges, and two district court judges, each appointed by the Chief Justice of the Supreme Court; four members of the Bar, elected by the Council of The North Carolina State Bar; and four citizens who are neither judges, active or retired, nor attorneys, two appointed by the Governor, one appointed by the Speaker of the North Carolina House of Representatives and one appointed by the President Pro Tempore of the North Carolina Senate.

ACTIVITIES IN 2010

Inquiries concerning the conduct of any justice or judge of the General Court of Justice are initiated by written complaints from members of the public or opened by the Commission acting on its own motion. 25 such complaints were pending at the beginning of 2010: 16 awaiting initial review or receipt of additional information, 5 under formal investigation, and 4 inquires pending hearing. During the year, 241 new complaints were filed or initiated by the Commission on its own motion. Formal investigations were ordered in 21 complaints. One public reprimand was ordered regarding 1 complaint. The Commission did not find probable cause to initiate any formal disciplinary proceedings in 2010. As indicated below, 22 matters were left pending at the end of 2010: 15 complaints awaiting initial review or the receipt of additional information and 7 complaints under formal investigation.

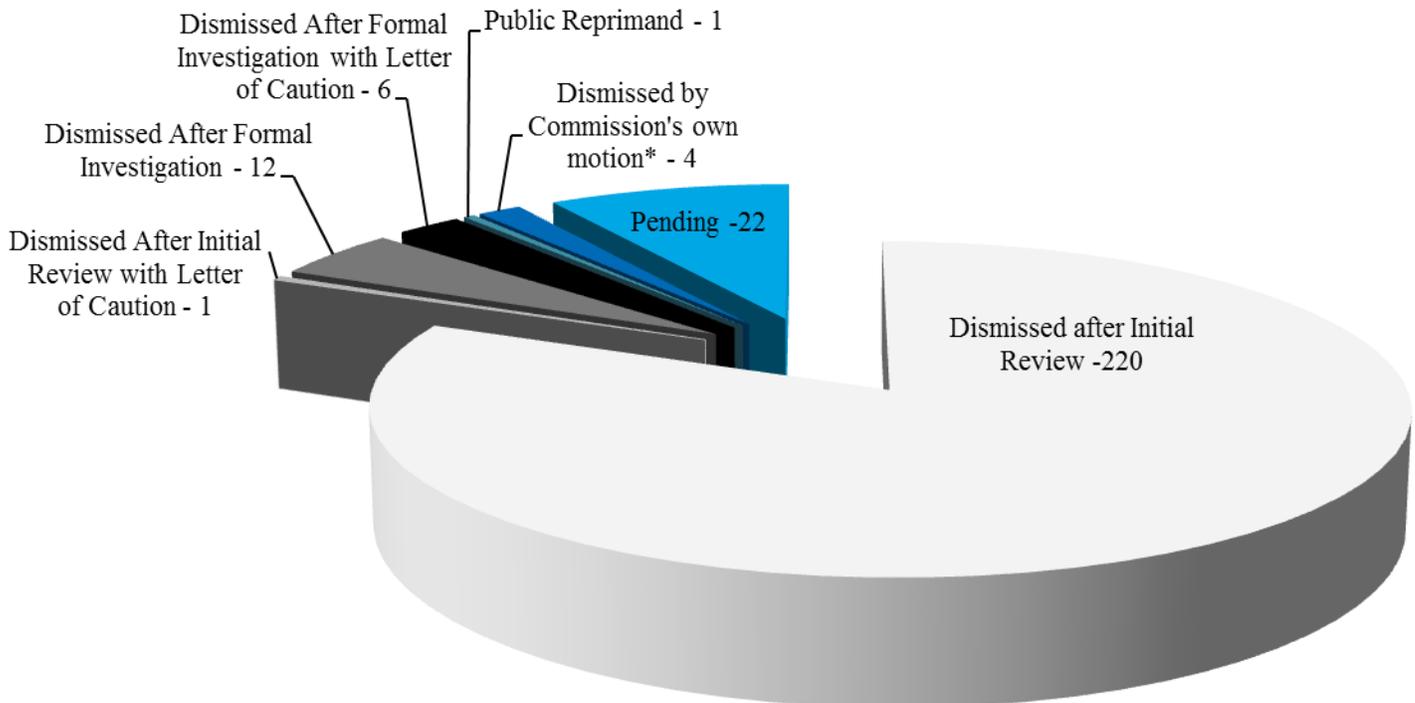
CASELOAD 2010

Matters pending 1/1/10	25
2010 Complaints	241
Total Workload	266
Complaints Disposed in 2010	244
Matters Pending 12/31/10	22

As in previous years, the majority of complaints were terminated by the Commission after initial review. Of the 244 complaints disposed of during the year, 220 were dismissed after initial review, 1 was dismissed after initial review with a letter of caution, 12 were dismissed after formal investigations, and 6 were dismissed after a formal investigation with a letter of caution. One public reprimand was ordered by the Commission. No statement of charges was filed to initiate a disciplinary proceeding or hearing conducted in 2010.

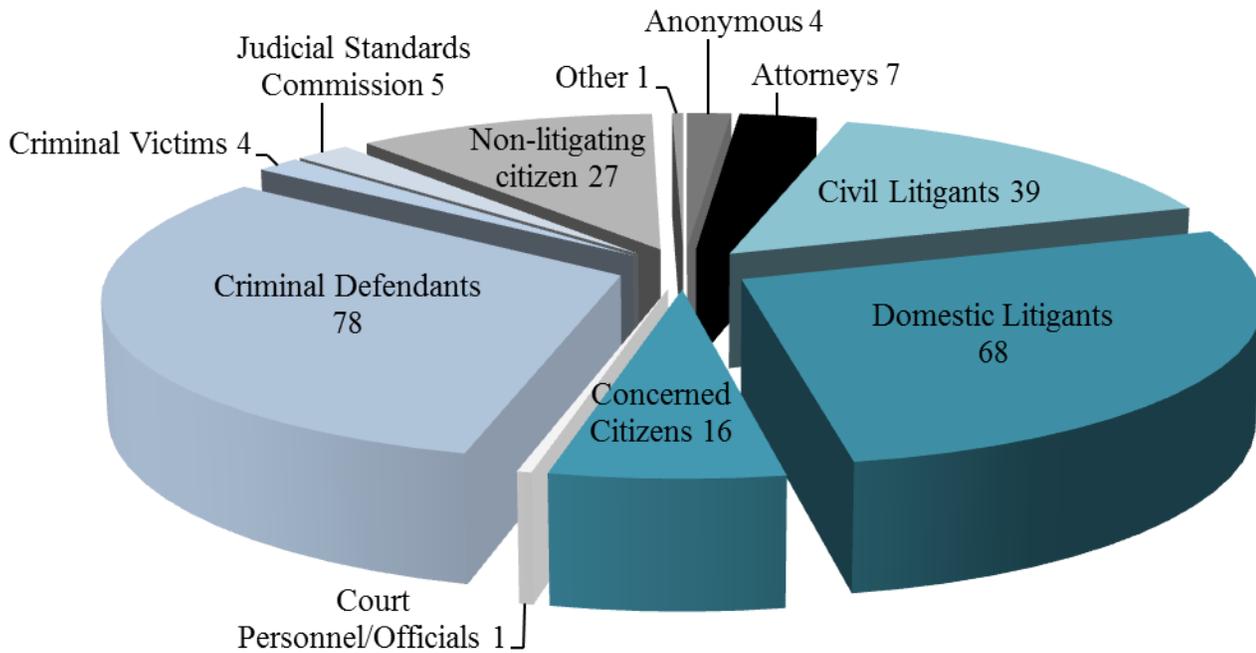
The North Carolina Supreme Court in *In re Belk*, 364 N.C. 114, 691 S.E.2d 685 (2010) removed District Court Judge William I. Belk from office following review of the Judicial Standards Commission's 2009 recommendation for removal.

COMPLAINT DISPOSITION 2010



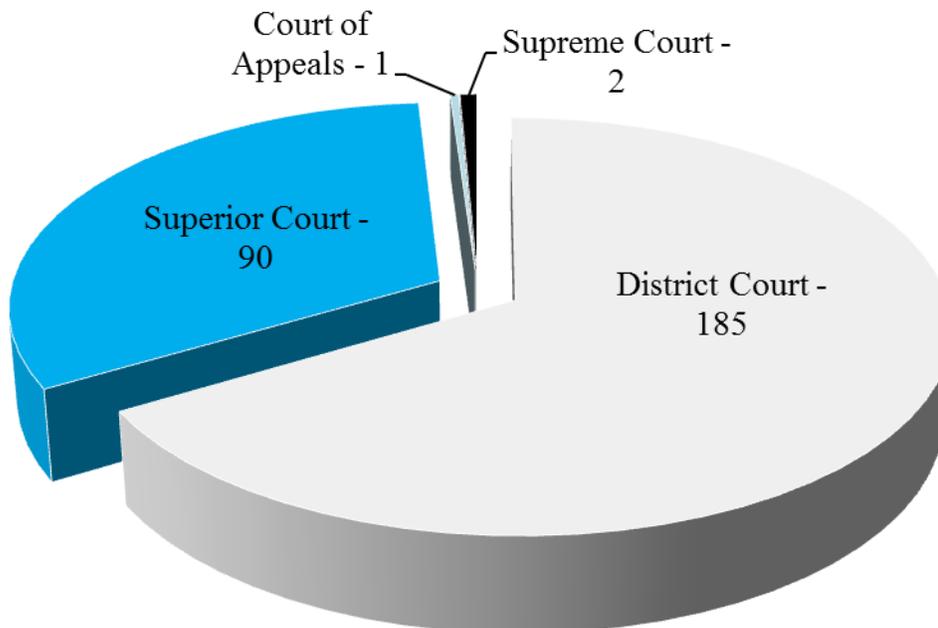
*Commission dismissed after removal of respondent judge.

SOURCES OF COMPLAINTS



Some complaints were provided by more than one complainant.

CATEGORIES OF RESPONDENT JUDGES



Some complaints named more than one judge or justice.

COMPLAINT ALLEGATIONS

Abuse of Power	51
Bias	92
Campaign conduct	15
Conflict of Interest	5
Criminal Conduct	5
Delay	55
Demeanor	21
Denied Fair Hearing	34
Disability	1
Ex Parte Communication	47
Failed Administrative Duty	3
Fraud/Corruption	7
Inappropriate Comments	34
Legal/Procedural Error	202
Other	15
Prestige Misuse	6
TOTAL	593

Some complaints contained more than one allegation.

FIVE YEAR COMPARATIVE ANALYSIS

Year	Pending from Previous Years	New	Pending at Year End	Dismissed After Initial Review	Formal Investigation Ordered	Dismissed After Formal Investigation	Private Letter of Caution	Public Reprimand	Statement of Charges Filed	Stipulated Dismissal	Hearing Conducted	Dismissed After Hearing	Recommendation For Discipline Filed
2010	25	241	22	220	21	12	7	1	0	1(4)±	0	0	0
2009	47	279	25	259	25	19	11	4	3(8)	2(3)*	2(4)	1	1(3)
2008	37	306	47	257	33	11	22	3	5	0	3	3	1
2007	67	262	37	260	15	8	4	3	15	1	3	1	2
2006	34	268	67	208	24	9	7	0	9	1	2	0	1
Total		1356		1204	118	59	51	11	32	5	10	5	5
Avg		271.2		240.8	23.6	11.8	10.2	2.2	6.4	1	2	1	1

number in () indicates total number of complaints addressed

** dismissed due to death of the respondent judge*

± dismissed due to removal of the respondent judge

APPENDIX A

PAST AND PRESENT MEMBERS
OF THE
JUDICIAL STANDARDS COMMISSION

Judges Appointed by the Chief Justice

Court of Appeals

Hon. Walter E. Brock
 Hon. Edward B. Clark
 Hon. Gerald Arnold
 Hon. Clifton E. Johnson
 Hon. Sidney S. Eagles, Jr.
 Hon. Jack L. Cozort
 Hon. John B. Lewis, Jr.
 Hon. John C. Martin *

Superior Court

Hon. George M. Fountain
 Hon. W. Douglas Albright
 Hon. James M. Long
 Hon. Robert D. Lewis
 Hon. Marvin K. Gray
 Hon. James L. Baker, Jr.
 Hon. Richard D. Boner
 Hon. Paul L. Jones *
 Hon. Tanya T. Wallace *

District Court

Hon. E. D. Kuykendall, Jr.
 Hon. C. Walter Allen
 Hon. L. T. Hammond, Jr.
 Hon. W. S. Harris, Jr.
 Hon. A. Elizabeth Keever
 Hon. Joyce A. Hamilton
 Hon. Tanya T. Wallace
 Hon. Rebecca B. Knight *
 Hon. Alexander Lyerly *

Attorneys Elected by the State Bar Council

Mr. Emerson T. Sanders
 Mr. Harold K. Bennett
 Mr. Robert G. Sanders
 Mr. Jerome B. Clark, Jr.
 Mr. E. K. Powe
 Mr. Rivers D. Johnson, Jr.
 Mr. Louis J. Fisher, Jr.
 Mr. William K. Davis
 Mr. Z. Creighton Brinson
 Mr. Charles M. Davis
 Mr. Ronald Barbee
 Mr. William O. King
 Mr. Steven Michael
 Mr. Dudley Humphrey *
 Mr. L.P. Hornthal, Jr. *
 Mr. Edward T. Hinson, Jr. *
 Mr. William H. Jones, Jr. *

* *current member*

Citizens Appointed by the Governor

Mr. Marvin B. Koonce, Jr.
 Mrs. George L. Hundley
 Ms. N. Susan Whittington
 Mrs. Veatrice C. Davis
 Ms. Pamela S. Gaither
 Mr. Albert E. Partridge, Jr.
 Mrs. Margaret H. Almond
 Mr. Melvin C. Swann, Jr.
 Mr. Roland W. Leary
 Mr. James L. Mebane
 Mr. T. Ray Warren
 Mrs. Linda Brown Douglas *
 Mr. Arthur B. Schools, Jr. *

Citizens Appointed by the General Assembly

Hon. Todd W. Tilley *
 Mr. R. Wayne Troutman *

APPENDIX B

SUPREME COURT OPINIONS
REGARDING RECOMMENDATIONS OF THE
JUDICIAL STANDARDS COMMISSION

In re Crutchfield, 289 N.C. 597, 223 S.E.2d 822 (1975)
In re Edens, 290 N.C. 299, 226 S.E.2d 5 (1976)
In re Stuhl, 292 N.C. 379, 233 S.E.2d 562 (1977)
In re Nowell, 293 N.C. 235, 237 S.E.2d 246 (1977)
In re Hardy, 294 N.C. 90, 240 S.E.2d 367 (1978)
In re Martin, 295 N.C. 291, 245 S.E.2d 766 (1978)
In re Peoples, 296 N.C. 109, 250 S.E.2d 890 (1978)
In re Martin 302 N.C. 299, 275 S.E.2d 412 (1981)
In re Hunt, 308 N.C. 328, 302 S.E.2d 235 (1983)
In re Kivett, 309 N.C. 635, 309 S.E.2d 422 (1983)
In re Wright, 313 N.C. 495, 329 S.E.2d 668 (1985)
In re Griffin, 320 N.C. 163, 357 S.E.2d 682 (1987)
In re Bullock, 324 N.C. 320, 377 S.E.2d 743 (1989)
In re Hair, 324 N.C. 324, 377 S.E.2d 749 (1989)
In re Greene, 328 N.C. 639, 403 S.E.2d 257 (1991)
In re Bullock, 328 N.C. 712, 403 S.E.2d 264 (1991)
In re Sherrill, 328 N.C. 719, 403 S.E.2d 255 (1991)
In re Harrell, 331 N.C. 105, 414 S.E.2d 36 (1992)
In re Martin, 333 N.C. 242, 424 S.E.2d 118 (1993)
In re Bissell, 333 N.C. 766, 429 S.E.2d 731 (1993)
In re Hair, 335 N.C. 150, 436 S.E.2d 128 (1993)
In re Cornelius, 335 N.C. 198, 436 S.E.2d 836 (1993)
In re Bullock, 336 N.C. 586, 444 S.E.2d 299 (1994)
In re Leonard, 339 N.C. 596, 453 S.E.2d 521 (1995)
In re Martin, 340 N.C. 248, 456 S.E.2d 517 (1995)
In re Greene, 340 N.C. 251, 456 S.E.2d 516 (1995)
In re Ammons, 344 N.C. 195, 473 S.E.2d 326 (1996)
In re Fuller, 345 N.C. 157, 478 S.E.2d 641 (1996)
In re Martin, 345 N.C. 167, 478 S.E.2d 186 (1996)
In re Renfer, 345 N.C. 632, 482 S.E.2d 540 (1997)
In re Renfer, 347 N.C. 382, 493 S.E.2d 434 (1997)

In re Tucker, 348 N.C. 677, 501 S.E.2d 67 (1998)
In re Tucker, 350 N.C. 649, 516 S.E.2d 593 (1999)
In re Brown, 351 N.C. 601, 527 S.E.2d 651 (2000)
In re Hayes, 353 N.C. 511, 546 S.E.2d 376 (2001)
In re Stephenson, 354 N.C. 201, 552 S.E.2d 137 (2001)
In re Brown, 356 N.C. 278, 570 S.E.2d 102 (2002)
In re Hayes, 356 N.C. 389, 584 S.E.2d 260 (2002)
In re Hill, 357 N.C. 559, 591 S.E.2d 859 (2003)
In re Brown, 358 N.C. 711, 599 S.E.2d 502 (2004)
In re Braswell, 358 N.C. 721, 600 S.E.2d 849 (2004)
In re Hill, 359 N.C. 308; 609 S.E.2d 221 (2005)
In re Harrison, 359 N.C. 415; 611 S.E.2d 834 (2005)
In re Daisy, 359 N.C. 622, 622 S.E.2d 529 (2005)
In re Ballance, 361 N.C. 338, 643 S.E.2d 584 (2007)
In re Royster, 361 N.C. 560, 648 S.E.2d 837 (2007)
In re Allen, 362 N.C. 73, 653 S.E.2d 423 (2007)
In re Badgett, 362 N.C. 202, 657 S.E.2d 346 (2008)
In re Badgett, 362 N.C. 482, 666 S.E.2d 743 (2008)
In re Belk, 364 N.C.114, 691 S.E.2d 685 (2010)